

# **EXHIBIT A**

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF DELAWARE

THOMAS A. EAMES, on behalf of  
themselves and all others : CIVIL ACTION  
similarly situated; ROBERTA L. :  
EAMES, on behalf of themselves :  
and all others similarly :  
situated; TAMMY EAMES, on behalf :  
of themselves and all others :  
similarly situated; :

Plaintiffs, :

v :

NATIONWIDE MUTUAL INSURANCE :  
COMPANY, :

Defendant. :

NO. 04-1324 (KAJ)

Wilmington, Delaware

Tuesday, September 13, 2005 at 9:30 a.m.

TELEPHONE CONFERENCE

BEFORE: HONORABLE KENT A. JORDAN, U.S.D.C.J.

APPEARANCES:

MURPHY, SPADARO & LANDON  
BY: JOHN S. SPADARO, ESQ.

Counsel for Plaintiffs

SWARTZ CAMPBELL, LLC  
BY: NICHOLAS E. SKILES, ESQ.

and

Brian P. Gaffigan  
Registered Merit Reporter

1 helpful. You've guys have spent I don't know how much time  
2 and money writing me letters, saying how unreasonable the  
3 other side is. I mean I'm not unsympathetic to you,  
4 Mr. Spadaro. You say "it turns into a referendum on me."  
5 That's now how you view this but I have to say candidly on  
6 this record you are so wrapped up in the emotion of this  
7 case, it's just screaming at me over the phone. The heat  
8 waves are coming off the receiver at this end. Both sides.  
9 The sarcasm is evident in spots in the correspondence from  
10 the other side. Your intensity is evident.

11           You folks have got to get your emotions under  
12 control. And I can't be the one who is holding your hand  
13 through this. I have got too many other people with  
14 legitimate complaints and disputes that I can't have your  
15 issues swamp me on a monthly basis for time to read your  
16 letters, digest your problem, which I do, and then get on  
17 the phone with you and try to sort it out.

18           So both sides, I want a discussion from you  
19 about who would be a good neutral if this happens again,  
20 because if it happens, this is the last free bite. Next  
21 time, we're going and I'm bringing somebody into the mix.  
22 And in the first instance, we'll be splitting it 50/50 but  
23 I'm going to be asking that person "who is a bad actor  
24 here?" And if they say "you know what? I think Nationwide  
25 really is jerking them around," you are going to pay the

1 full freight; not 75 percent, the whole wad.

2 Does everybody understand what I'm trying to get  
3 across to you? Mr. Cheyney?

4 MR. CHEYNEY: Yes, Your Honor.

5 THE COURT: Okay. Mr. Oesterling, I'm glad to  
6 have you in the mix. I know you are in-house with  
7 Nationwide but I'm hoping against hope that you will be a  
8 force for reason in the course of these discussions.

9 MR. OESTERLING: Your Honor, if I could make a  
10 suggestion to make our meeting more productive? If there  
11 are specific questions, technical questions that I might  
12 not be able to answer in a face-to-face, I could do some  
13 research prior to our meeting to make sure that it is  
14 productive.

15 THE COURT: Okay. Well, that's a great idea.  
16 And, Mr. Spadaro, you let them him know that.

17 And here is my last piece of advice for you  
18 before I hang up because I've got people on hold. I expect  
19 there to be more phone calls; more phone calls and fewer  
20 e-mails. Pick the phone up and speak to each other. If you  
21 need to make a record in e-mail afterwards that you feel  
22 they're so completely absent any trust, then you write your  
23 confirming e-mail, but pick the phone up and speak to each  
24 other, okay? I think at least 75 percent of your problem is  
25 you are so busy each side making a record that you are not